IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WP(C).No. 20525 of 2007(R)

PETITIONER:

D.INDIRA, SREE MURUGAN MARBLES,
ULIAKOVIL, KOLLAM.

BY ADV. SRI.S.SOMAN
SMT.P.RAJATHA

RESPONDENTS:

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1. SALES TAX OFFICER, IIND CIRCLE,
KOLLAM.

2. APPELLATE ASSISTANT COMMISSIONER OF
COMMERCIAL TAXES, KOLLAM.

3. SALES TAX APPELLATE TRIBUNAL,
THIRUVANANTHAPURAM.

4. TAHASILDAR (RR), KOLLAM.

BY G.P. SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.20525 of 2007

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Dated this the 4th day of July, 2007.

JUDGMENT

Heard counsel for the petitioner and Government Pleader. Even though petitioner filed appeals against sales tax assessments for 1999-2000 to 2002-2003 before the appellate authority, such appeals are dismissed vide Exts.P5 and P6 as not maintainable for non-payment of admitted tax. Counsel now submitted that petitioner has paid admitted tax and filed second appeal before the Tribunal. This W.P. is filed for stay against Ext.P11 recovery proceedings whereunder the total amount sought to be recovered for all the four years is Rs.2,56,620/-. Having regard to the contentions raised, I feel one more opportunity can be granted to the petitioner to argue the first appeal, but on condition that petitioner remits rupees fifty thousand towards balance arrears of tax. The W.P. is accordingly disposed of directing the 4th respondent to withhold recovery proceedings for three weeks from now and if petitioner remits Rs.50,000/- before the first respondent and produces receipt before the 4th respondent, he will withhold recovery proceedings for another three months thereafter. If petitioner makes payment as above, then Exts.P5 and P6 will stand set

aside and the appeals will stand restored to the Deputy Commissioner of Appeals, Kollam. If payment is made and receipt is produced before him along with copy of this judgment, the Deputy Commissioner of Appeals is directed to take up the appeals filed against all the four assessments, hear the petitioner and dispose of the same on merits within two months thereafter. If Rs.50,000/- is paid as above within two weeks, recovery thereafter will be based on orders in appeal. If petitioner complies with the above directions and appeals are disposed of afresh, then the Tribunal will close the second appeals as infructuous. There will be stay of all recovery proceedings including sale of petitioner's properties posted for 9.7.2007 for petitioner to make payment as above. However, if petitioner does not make payment within three weeks, the entire arrears can be recovered and in that event, petitioner can pursue the appeals before the Tribunal.

C.N.RAMACHANDRAN NAIR
Judge

pms